U.S. Free Trade Agreements with Chile and Singapore
Rep. Henry A. Waxman
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Mr. Speaker. Despite serious reservations, I will support the U.S. Free Trade Agreements (FTA) with Chile and Singapore. I support these agreements because I believe Chile and Singapore are valuable economic partners and strategic international allies. I have serious concerns, however, that the agreements also have a number of provisions that, while acceptable in the case of Chile and Singapore, set bad precedents for the future.

Chile and Singapore are important markets for U.S. products and investment. As anchors of trade in Southeast Asia and Latin America, they are advanced economies with political openness and a growing middle class. The FTAs before us today are valuable because they offer a reduction of barriers to trade in financial services with Singapore, which is the largest U.S. export sector in Asia, and strong market access for U.S. goods in Chile.

The agreements have strong intellectual property protections to fight the theft of copyrighted work and bold new measures to challenge digital and online piracy. These measures will help protect the driving force of creativity and innovation that has made entertainment and information technology the fastest growing sectors and the biggest exporting industries in the United States and in California.

At the same time, the agreements unfortunately include provisions that set the wrong tone for the future of U.S. trade policy.

I am concerned, for example, that because the U.S. Trade Representative's (USTR) model for automatic across the board tariff reductions in agriculture includes tobacco, the FTAs with Chile and Singapore could lead to an increase in cigarette consumption. Similarly, in the area of services, I am concerned that more exceptions should have been made for public utilities in order to safeguard government authority to protect consumers in the event of a crisis.

I am deeply disappointed that the Administration refused to include the U.S.-Jordan FTA standards that require the enforcement of environmental laws and the adoption of labor laws consistent with the five core International Labor Organization (ILO) standards. While laws in Chile and Singapore may already meet these standards, the omission sends a wrong message that the basic principles of international workers rights and environmental protection are slipping from the U.S. trade agenda.

I am also disappointed that the Administration did not use the Chile and Singapore FTAs as an opportunity to explicitly clarify that the investor-to-state provisions of the agreement do not give foreign companies greater rights than U.S. investors have under U.S. law. Even though the definition of expropriation in the Singapore and Chile FTAs is narrower than NAFTA, more changes are necessary to fix this distorted mechanism. Experience tells us that it is being abused to challenge U.S. regulatory and environmental law.

Moreover, I strenuously object to the FTAs' grant of extended monopoly periods to pharmaceutical companies, during which they will face no competition from generic drugs. Many people describe these protections as a simple extension of the Hatch –Waxman legislation that applies to the American market to our trading partners, but this is a serious distortion of the bill I co-authored. Hatch-Waxman was passed to overcome existing regulatory barriers in the U.S. market to the approval of low-cost generic drugs. In exchange for this new authority, the law provided specified periods of exclusive marketing and patent extensions to pharmaceutical companies, allowing them to recoup development costs. The length of any exclusive marking period, during which no generic version could be marketed, was tied to the degree of innovation represented by the drug.

As a co-author of Hatch-Waxman, I cannot emphasize enough that this carefully balanced legislation represented a tailored solution to a specific regulatory problem in the United States. By adding these provisions to trade agreements, the USTR is heedlessly extending the exclusive marketing periods of Hatch-Waxman (and, in some cases, even more generous exclusive marketing periods) to other countries whose generic drug markets and health-care regulatory systems may look nothing those in the United States. Although the impact of these protections may be limited in developed countries like Chile and Singapore it would be devastating in other countries that lack affordable and available life saving medicines and endure dangerous health epidemics.

In voting for this legislation, I want to make it clear that the Chile and Singapore agreements should not be adopted as "cookie-cutter" prototypes for other FTA's currently being negotiated. The economic, social, and political diversity of Central America, Morocco, Australia, and the other countries slated for inclusion in the Free Trade Agreement of the Americas and the Southern Africa Customs Union are simply too diverse to be forced in the Chile and Singapore mold.

International trade has the potential to raise the standard of living and quality of life for millions of people around the world. To achieve this, however, we must work for progressive, forward-looking agreements that not only expand markets, but protect worker and consumer rights and the environment. What is acceptable for Chile and Singapore will not be adequate in other countries. We must negotiate future FTAs to ensure that our citizens and our trading partners have the opportunity to experience the full benefits of free and fair trade.